

Federal Deposit Insurance Corporation

Advanced Topics in Deposit Insurance Coverage

Seminar For Bankers

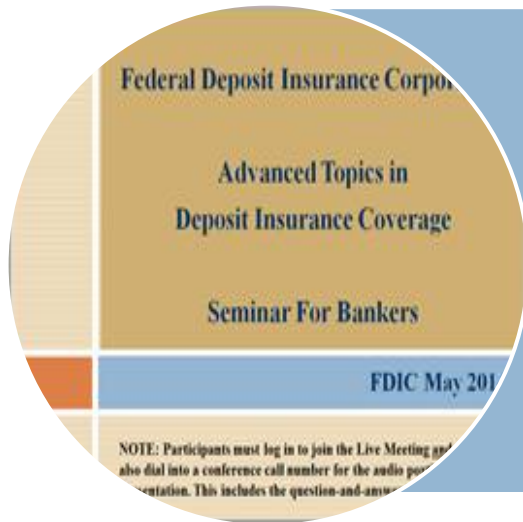
FDIC May 2014

NOTE: Participants must log in to join the Live Meeting and must also dial into a conference call number for the audio portion of this presentation. This includes the question-and-answer period.

Table of Contents

- ❑ **Part 1 – General Principles of Deposit Insurance**
- ❑ **Part 2 – Business/Organization Accounts**
- ❑ **Part 3 – Government Accounts**
- ❑ **Part 4 – Mortgage Servicing Accounts**
- ❑ **Part 5 – Health Savings Accounts**
- ❑ **Part 6 – Pass-Through Deposit Insurance Coverage**
- ❑ **Part 7 – When Insured Depository Institutions (IDIs) Merge**
- ❑ **Part 8 – Right of Offset**
- ❑ **Part 9 – Deposit Insurance Resources**

Advanced Topics in Deposit Insurance



Part 1 – General Principles of Deposit Insurance

General Principles of Deposit Insurance

- ❑ In order to determine deposit insurance coverage, bankers must ask and answer the following three questions:
 1. Who owns the funds?
 2. What ownership category is the depositor eligible to use or attempting to use?
 3. Does the depositor meet the requirements of that category?

Deposit Insurance Ownership Categories

Owner = individual

**Category 1
Single
Accounts**

**Category 2
Joint
Accounts**

**Category 3
Revocable
Trust
Accounts**

**Category 4
Irrevocable
Trust
Accounts**

**Category 5
Certain
Retirement
Accounts**

**Category 6
Employee
Benefit
Plan
Accounts**

Owner = business/organization

**Category 7
Corporations,
Partnerships
and
Unincorporated
Association
Accounts**

Owner = government entity

**Category 8
Government
Accounts**

Owner = mortgagee/lender

**Category 9
Principal and
Interest (P&I)
Funds in
Mortgage
Servicing
Accounts**

Advanced Topics in Deposit Insurance

Part 2

**Category 7
Corporations,
Partnerships
and
Unincorporated
Association
Accounts**

Part 3

**Category 8
Government
Accounts**

Part 4

**Category 9
Principal and
Interest (P&I)
Funds in
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Accounts**

Part 5

**Health Savings
Accounts**

Part 6

**Pass-Through
Deposit
Insurance
Coverage**

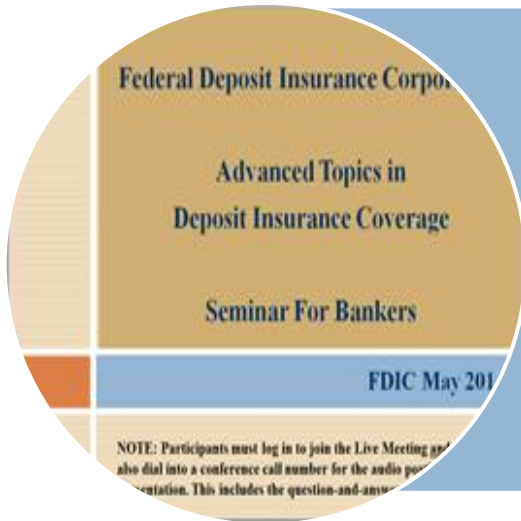
Part 7

**When IDIs
Merge**

Part 8

Right of Offset

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Part 2 – Business/Organization Accounts

Category 7 – Business/Organization Accounts

Business/Organization Accounts represent funds owned by a business or an organization.

Requirements:

- ❑ Based on state law, the business/organization must be a legally created entity such as a/an:
 - ❑ Corporation (includes Subchapter S, LLCs, and PCs)
 - ❑ Partnership
 - ❑ Unincorporated Association
- ❑ The business/organization must be engaged in an independent activity* which is generally supported by:
 - ❑ Separate tax identification numbers
 - ❑ Separate charter or bylaws

* Independent activity means the entity was formed for a business reason and not solely to increase deposit insurance coverage.

Category 7 – Business/Organization Accounts

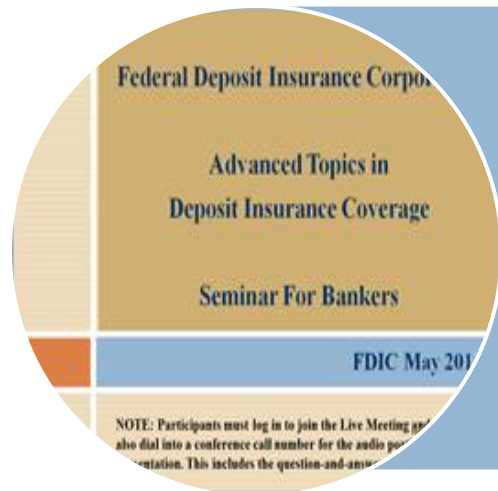
- Coverage:

- \$250,000 per legal entity, engaged in an independent activity.

Remember!

- The existence of multiple signers such as partners, officers or directors does not increase coverage.
- A separate business purpose for funds owned by the same legal entity does not increase coverage.

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Part 3 – Government Accounts

Category 8 – Government Accounts

- ❑ **Government Accounts** are funds placed by an **Official Custodian** of a government entity, including federal, state, county, municipality, or political subdivision.
- ❑ For **Category 8 - Government Accounts**, the insured party is the “official custodian”— an appointed or elected official who has “plenary authority” over funds in the account owned by the public unit.
- ❑ “*Plenary authority*” includes possession, as well as the authority to establish accounts for such funds in IDIs and to make deposits, withdrawals, and disbursements of such funds.

Category 8 – Government Accounts

By statute, each of these Government Entities are eligible for deposit insurance coverage:

- ☐ United States
- ☐ States
- ☐ Counties
- ☐ Municipalities
- ☐ District of Columbia
- ☐ Puerto Rico
- ☐ Other territories
- ☐ Indian tribes
- ☐ School districts
- ☐ Power districts
- ☐ Irrigation districts
- ☐ Bridge or port authorities
- ☐ Other “political subdivisions”

Category 8 – Government Accounts

- ❑ Coverage:
 - ❑ Funds held by an official custodian of a government entity are insured as follows:
 - ❑ Accounts held in an in-state IDI
 - ❑ Up to \$250,000 for the combined amount of all time and savings accounts (including NOW accounts) and
 - ❑ Up to \$250,000 for all demand deposit accounts (interest-bearing and noninterest-bearing)
 - ❑ Accounts held in an out-of-state IDI
 - ❑ Up to \$250,000 for the combined total of all deposit accounts

Category 8 – Government Accounts

Difference between a Negotiable Order of Withdrawal (“NOW”) account and an interest-bearing Demand Deposit Account (“DDA”)

NOW Accounts

IDI reserves the right to require at least seven days’ written notice prior to withdrawal or transfer of any funds (See 12 C.F.R. § 204.2(e)(2)).

Only individuals, nonprofit organizations and government entities can own a NOW account; for-profit entities are expressly prohibited from holding NOW accounts.

DDA

IDI does not reserve the right to require at least seven days’ written notice of an intended withdrawal (See 12 C.F.R. § 204.2(b)(1)).

Any depositor can own a demand deposit account.



[Home](#) > [Deposit Insurance](#) > [Are My Deposits Insured?](#) > Deposit Insurance for Accounts Held by Government Depositors

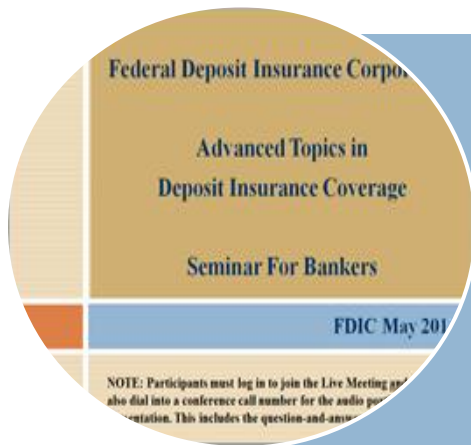
Deposit Insurance for Accounts Held by Government Depositors

Section 330.15 of the FDIC's regulations (12 C.F.R. 330.15) governs the insurance coverage of public unit accounts. For deposit insurance purposes, the term "public unit" includes a state, county, municipality, or any "political subdivision" of the public unit. Under section 330.15, the "official custodian" of the funds belonging to the public unit – rather than the public unit itself – is insured as the depositor.

Permanent Rule

The insurance coverage of public unit accounts depends upon the type of deposit and the location of the insured depository institution. All time and savings deposits owned by a public unit and held by the public unit's official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to \$250,000. Separately, all demand deposits owned by a public unit and held by the public unit's official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to \$250,000. For the purpose of these rules, the term 'time and savings deposits' includes NOW accounts and money market deposit accounts but does not include interest-bearing demand deposit accounts (which were permitted after July 21, 2011). The term 'demand deposits' means both interest-bearing and noninterest-bearing deposits that are payable on demand and for which the depository institution does not reserve the right to require advance notice of an intended withdrawal. The insurance coverage of accounts held by government depositors is different if the depository

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Part 4 – Mortgage Servicing Accounts

Category 9 – Mortgage Servicing Accounts

- ❑ Mortgage Servicing Accounts are established by lenders or mortgagees and represent commingled principal and interest payment accounts received from borrowers.
- ❑ Coverage:
 - ❑ *Based on the borrowers' payments of principal and interest into the mortgage servicing account.*
 - ❑ *Provided to the mortgagees/lenders, as a collective group.*

Category 9 – Mortgage Servicing Accounts

- ❑ Coverage (cont.):
 - ❑ Up to \$250,000 per borrower.
 - ❑ These funds will not be aggregated with other deposit accounts that the borrowers may maintain at the same IDI.

Remember!

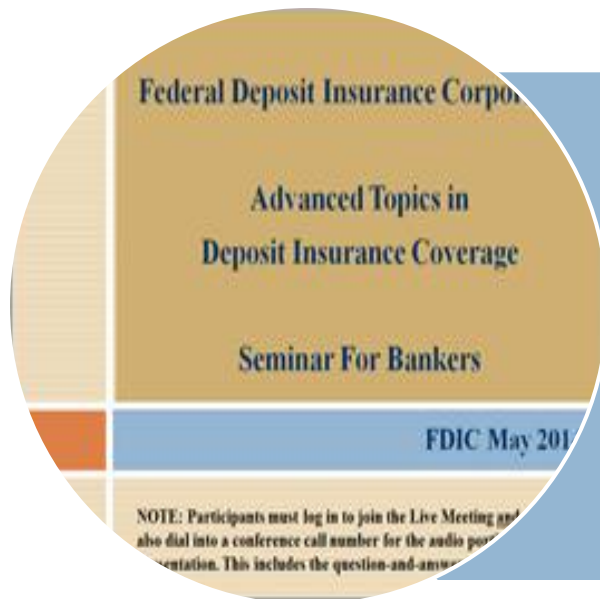
- ❑ Payments of *taxes and insurance* (T&I) premiums are insured on a pass-through basis as the funds of each respective borrower.
- ❑ T&I premiums are added to other individually owned funds held by each borrower at the same IDI and insured to the applicable limit.

Category 9 – Mortgage Servicing Accounts

Example:

- A mortgage servicer collects from one thousand different borrowers their monthly mortgage payments of \$2,000 (P&I) and places the funds into a mortgage servicing account.
 - Is the \$2,000,000 aggregate balance of the mortgage servicer's mortgage servicing account insured?
 - Yes, the account is fully insured to the mortgage servicer because each mortgagor's payment of \$2,000 (P&I) is insured separately for up to \$250,000.

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Part 5 – Health Savings Accounts (HSAs)

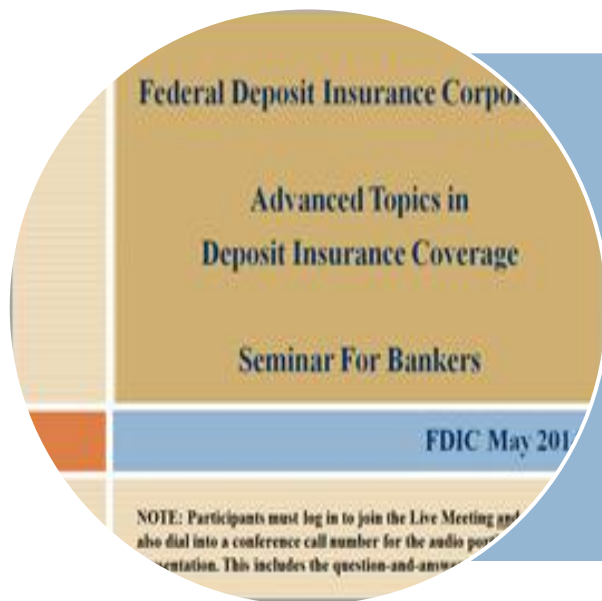
Health Savings Accounts

- ❑ A Health Savings Account (“HSA”) is a tax-exempt trust or custodial account set up with a qualified HSA trustee, such as an IDI, to pay or reimburse certain medical expenses.
 - ❑ HSAs are insured based on who owns the funds and whether beneficiaries are named in the IDI account records.
 - ❑ If a depositor opens an HSA with no beneficiaries named, then the FDIC would insure these funds under the depositor’s **Category 1 – Single Ownership Accounts**.
 - ❑ When beneficiaries are named, the FDIC will insure the owner of an HSA deposit under **Category 3 – Revocable Trust Accounts** in the same manner as a payable on death (POD) account.

Remember!

- ❑ The FDIC does not require “POD” or “ITF” be included in the account title for an HSA to be eligible for **Category 3 – Revocable Trust Account** coverage.

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Part 6 – Pass-Through Deposit Insurance Coverage

Pass-Through Deposit Insurance Coverage

- ❑ Pass-through deposit insurance regulations can be found at 12 C.F.R. § 330.5 and 12 C.F.R. § 330.7 (on the FDIC Website at: <http://www.fdic.gov/regulations/laws/rules/2000-5400.html>).
- ❑ Examples of accounts which may be entitled to receive pass-through coverage are **Fiduciary Accounts**. These accounts are established and maintained by third parties on behalf of the actual owner (referred to as the principal).
- ❑ An account that meets the definition of a fiduciary or agency account is entitled to “pass-through” deposit insurance coverage from the FDIC through the third party who establishes the account to the actual owner/principal, provided certain conditions are met.

Important!

- ❑ Fiduciary or agency accounts **are not** an ownership category!

Pass-Through Deposit Insurance Coverage

Examples of Third Parties Who Establish Fiduciary Accounts

Agent

Nominee

Guardian

Conservator

Executor

Broker

Examples of Fiduciary or Agency Accounts

Escrow

Power of Attorney

Uniform Transfer to Minors Act (UTMA)

Attorney Trust (IOLTA)

Agency

Brokered CDs

Pass-Through Deposit Insurance Coverage

- ❑ **What is “pass-through” deposit insurance coverage?**
 - ❑ When funds are deposited by a fiduciary or custodian on behalf of one or more actual owners of the funds, the FDIC will insure the funds as if the actual owners had established the deposit in the IDI.
- ❑ **What is the amount of “pass-through” deposit insurance coverage?**
 - ❑ Assuming the deposit meets the requirements for pass-through insurance coverage, then the amount of FDIC deposit insurance coverage will be based on the ownership capacity (i.e., under the applicable ownership category) in which each principal holds the funds.



Pass-Through Deposit Insurance Coverage

Examples of an IDI's Involvement with Agency Accounts

- ❑ An IDI may accept or receive third party deposits in a number of ways including:
 1. As a direct depository for agency funds (most common situation),
 2. As an agent/broker placing funds with other IDIs as part of a third-party program or,
 3. As an agent/broker placing customers' funds with other IDIs as part of its own program.

Pass-Through Deposit Insurance Coverage

Requirements for pass-through coverage include:

- ❑ Funds must be owned by the principal not the third party who set up the account (i.e., the fiduciary or custodian who is placing the funds). To confirm the actual ownership of the deposit funds, the FDIC may review:
 1. The agreement between the third party establishing the account and the principal and
 2. The applicable state law
- ❑ The IDI's account records must indicate the agency nature of the account (e.g., XYZ Company as Custodian, XYZ FBO, Jane Doe UTMA John Smith, Jr.).
- ❑ The IDI's records or accountholder's records must indicate both the principals' identities as well as their ownership interest in the deposit.
- ❑ Deposit terms (i.e., the interest rate and maturity date) for accounts opened at the IDI must match the terms the third party agent promised the customer.
- ❑ If the terms don't match, the third party agent might be deemed to be the legal owner of the funds by the FDIC. An agent may retain a portion of the interest (as the agent's fee) without precluding pass-through coverage.

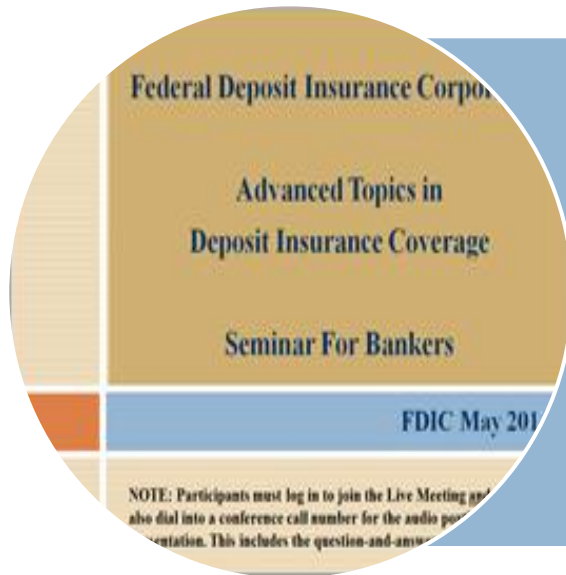
IDI Failure and Pass-through Coverage

How does the FDIC verify pass-through coverage when an IDI fails?

- ❑ Was the custodial account opened in the name of the principal/depositor? (e.g. ABC Inc. FBO John Smith).
- ❑ Were the funds held in a comingled account and does the IDI have the name and ownership interest of each depositor? (e.g. payroll account cards).
- ❑ Were the funds held in a comingled account and is the custodian maintaining information regarding each owner? (e.g. Brokered deposits, IOLTAs, third party stored value cards).
- ❑ Do the terms (i.e. interest rate and maturity date) match the terms promised by the fiduciary or agent?

For information about pass-through deposit insurance coverage linked to affiliates, see Guidance on Deposit Placement and Collection Activities (FIL-29-2010), dated June 7, 2010.

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Part 7 –When IDIs Merge

Coverage When IDIs Merge

Coverage When IDIs Merge

- ❑ Basic rule – There is separate deposit insurance coverage (i.e., for deposits at each IDI) for up to six months (starting with the effective date of the merger) if a depositor had funds in two IDIs that merged.
- ❑ Special exception for time deposits – For time deposits (i.e., CDs) issued by the assumed IDI, separate deposit insurance coverage will continue for the greater of either six months or the first maturity date of the time deposit.

Coverage When IDIs Merge

IDI Merger and CDs Example:

- ❑ Acquiring Bank and Bank Sold merged on July 1, 2010. Before the merger, Michelle Young had purchased:
 - ❑ a \$240,000 CD from Acquiring Bank on January 1, 2009. The CD has a four year term, and it matures on January 1, 2013; and
 - ❑ a \$230,000 CD from Bank Sold on October 1, 2009. The CD has a one year term, and it matures on October 1, 2010.
- ❑ Three months after the merger, on October 1, 2010, Michelle Young renewed her Bank Sold CD for another one year term until October 1, 2011.
- ❑ Michelle Young rolled over her original \$230,000 principal from Bank Sold. Assume accrued interest for both CDs is mailed monthly.

How are these CDs insured?

IDI Mergers and Grace Period

	2009	2010	2011	2012
Acquiring Bank	\$240K CD			
Bank Sold		\$230K CD		

- ❑ Acquiring Bank and Bank Sold merged on July 1, 2010. Before the merger, Michelle Young purchased:
 - ❑ a \$240,000 CD from Acquiring Bank on January 1, 2009. The CD has a four year term, and it matures on January 1, 2013; and
 - ❑ a \$230,000 CD from Bank Sold on October 1, 2009. The CD has a one year term, and it matures on October 1, 2010.
- ❑ At the time of the merger, Michelle Young has a \$240,000 CD from Acquiring Bank and a \$230,000 CD from Bank Sold.

IDI Mergers and Grace Period

	2009	2010	2011	2012
Acquiring Bank	\$240K CD			
Bank Sold		\$230K CD		
6 Month Grace Period				

- By 2010, Michelle Young has a \$240,000 CD from Acquiring Bank and a \$230,000 CD from Bank Sold.
- The banks merge on July 1, 2010; the six month grace period extends to Dec. 31, 2010.

IDI Mergers and Grace Period

	2009	2010	2011	2012
Acquiring Bank			\$240K CD	
Bank Sold		\$230K CD	\$230K CD	
6 Month Grace Period				
Combined Deposit			\$470K	

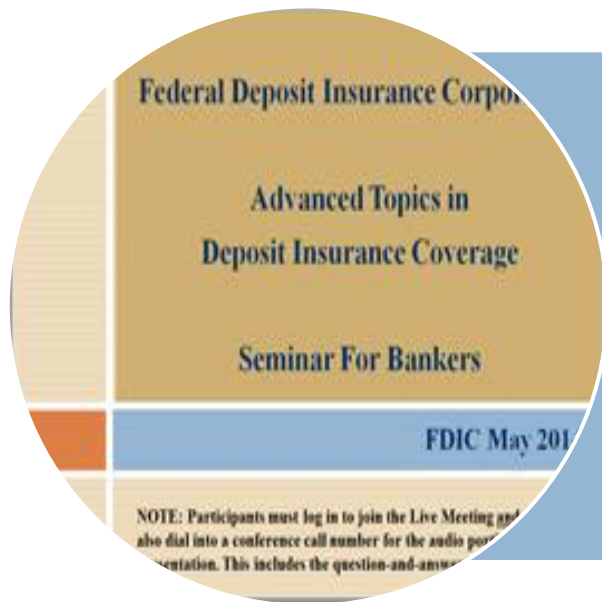
- By 2010, Michelle Young has a \$240,000 CD from Acquiring Bank and a \$230,000 CD from Bank Sold.
- The banks merge on July 1, 2010; the six month grace period extends to Dec. 31, 2010.
- During the grace period, Michelle Young renews her Bank Sold CD with the same terms so her two CDs continue to be insured separately until her Bank Sold CD matures on October 1, 2011.
- As a result, her two deposits totaling \$470,000 are fully insured until October 1, 2011.

IDI Mergers and Grace Period

	2009	2010	2011	2012
Acquiring Bank			\$240K CD	
Bank Sold		\$230K CD	\$230K CD	(\$220K)
6 Month Grace Period				
Combined Deposit			\$470K	\$470K
Potentially Uninsured				\$220K

- ❑ By 2010, Michelle Young has a \$240,000 CD from Acquiring Bank and a \$230,000 CD from Bank Sold.
- ❑ The banks merge on July 1, 2010; the six month grace period extends to Dec. 31, 2010.
- ❑ During the grace period, Michelle Young renews her Bank Sold CD with the same terms so her two CDs continue to be insured separately until her Bank Sold CD matures on October 1, 2011.
- ❑ As a result, her \$470,000 in combined funds are fully insured until October 1, 2011.
- ❑ But after October 1, 2011, of the \$470,000 in combined funds, **\$250,000 will be insured and \$220,000 could be uninsured.**
- ❑ Michelle Young must withdraw at least \$220,000 to avoid uninsured funds or consider restructuring her accounts.

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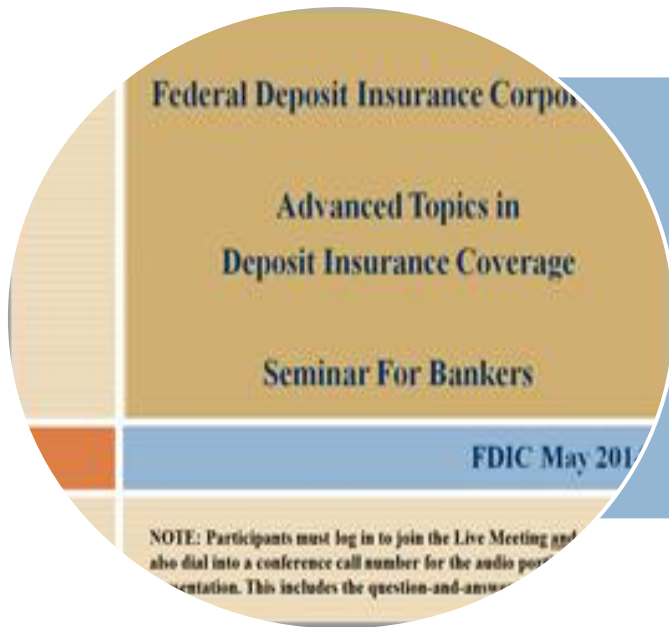
Part 8 – Right of Offset

Right of Offset

Loan Offset Against Deposits

- ❑ In the case of a non-delinquent loan, the depositor may elect to “set off” the loan against his/her deposits in order to receive full value for any uninsured deposits, provided the following exists:
 - ❑ Mutuality – the exact same owner of both the deposit and loan at the IDI,
 - ❑ The funds are not a “special purpose” deposit (e.g., funds held by the IDI trust department for safekeeping),
 - ❑ The deposits are not property of a third party and
 - ❑ The offset is permitted by state law.

Advanced Topics in Deposit Insurance



Part 9 – Deposit Insurance Resources

Additional 2014 FDIC Deposit Insurance Seminars

FDIC 2014 Seminar for Bankers

Deposit Insurance Coverage for Revocable Trust Accounts

**Category 3
Revocable
Trust Accounts**

FDIC 2014 Seminar for Bankers

Fundamentals of Deposit Insurance Coverage

**Category 1
Single
Accounts**

**Category 2
Joint
Accounts**

**Category 3
Revocable
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**Category 4
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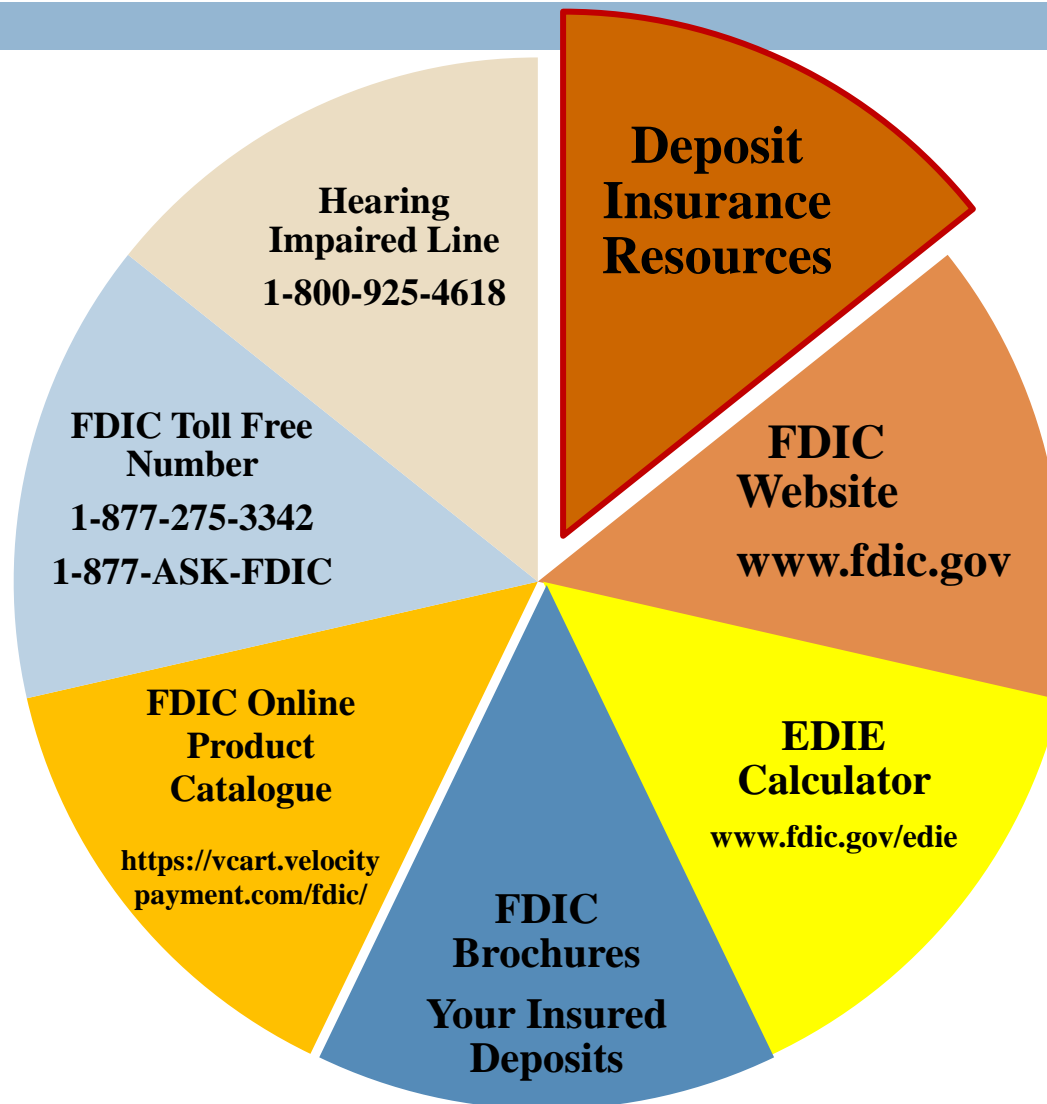
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Deposit Insurance Resources



Advanced topics in Deposit Insurance



Thank you for participating in the seminar!

Questions?